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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,640	01/18/2002	Norio Sato	96790P381	3062

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EXAMINER

TERESINSKI, JOHN

ART UNIT	PAPER NUMBER
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2858

DATE MAILED: 12/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/052,640

Applicant(s)

SATO ET AL.

Examiner

John Teresinski

Art Unit

2858

AW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) 14-57 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-11 and 13 is/are rejected.
- 7) ☒ Claim(s) 5 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☒ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election of claims 1-13 in Paper No. 2 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 14-57 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 2.

### *Specification*

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it exceeds 150 words and contains legal phraseology (line 21). Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2858

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1-4, 6-11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S.

Patent No. 6,060,756 to Machida et al..

Regarding claim 1, Machida et al. disclose a surface shape recognition sensor including:

a plurality of capacitive detection elements formed from lower electrodes and a deformable plate-like upper electrode made of metal (column 3 lines 27-35), the lower electrodes being insulated and isolated from each other and stationary laid out on a single plane of interlevel dielectric formed on a semiconductor substrate (column 3 lines 12-17), and the upper electrode being laid out above the lower electrodes at a predetermined interval and having a plurality of opening portions (column 5 lines 25-30);

a support electrode laid out around the lower electrodes while being insulated and isolated from the lower electrodes, and formed to be higher than the lower electrodes to support the upper electrode (column 3 lines 27-35);

a protective film on the upper electrode to close the opening portions (column 5 lines 13-22); and

a plurality of projections laid out in a region of said protective film above said capacitive detection element (column 3 lines 22-25).

Regarding claim 2, Machida et al. disclose protective film and projections integrally connected (column 3 lines 35-45).

Regarding claim 3, Machida et al. disclose the support electrode made of metal (column 9 lines 54-57).

Regarding claims 4 and 6, Machida et al. disclose an electrode dielectric film laid out on the lower electrode and film is formed into substantially the same shape as that of the lower electrode (column 3 lines 61-67).

Regarding claims 7-9, Machida et al. disclose a projection made of metal and laid out in a region of the protective film above the capacitive detection element (column 6 lines 41-51).

Regarding claim 10, see claim 3 above.

Regarding claims 11 and 13, see claims 4 and 6 above.

***Allowable Subject Matter***

Claims 5 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for indicating allowable subject matter:

Regarding claims 5 and 12:

The primary reason for the indicating allowable subject matter of claims 5 and 12 is the inclusion of the moving amount of a central portion of the upper electrode when the upper electrode deforms at maximum is within an elastic deformation range, the interval between the upper electrode and dielectric film. It is these features found in the claim, as they are claimed in the combination that has not been found, taught or suggested by the prior art of record, which makes this claim allowable over the prior art.

Art Unit: 2858

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 9,494,096 to Sakai et al. disclose a semiconductor physical quantity sensor including upper electrodes, lower electrodes and a support electrode.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Teresinski whose telephone number is (703) 305-4746. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, N. Le can be reached on (703) 308-0750. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

JT  
JT

December 22, 2003



**N. Le**  
**Supervisory Patent Examiner**  
**Technology Center 2800**